

TEXAS APPRAISER LICENSING§
AND CERTIFICATION BOARD

vs.

ISRAEL R. GALINDO
TX-1337554-R

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DOCKETED COMPLAINT NO.
11-212

AGREED FINAL ORDER

On the 15th day of February, 2013, the Texas Appraiser Licensing and Certification Board, (the "Board"), considered the matter of the certification of Israel R. Galindo (the "Respondent").

In order to conclude this matter, Israel R. Galindo neither admits nor denies the truth of the Findings of Fact and Conclusions of Law contained herein and further agrees to the disciplinary action set out in this Agreed Final Order. The Board makes the following findings of fact and conclusions of law and enters this Order in accordance with TEX. OCC. CODE § 1103.458:

FINDINGS OF FACT

1. Respondent Israel R. Galindo was a Texas state certified residential real estate appraiser who holds and held certification number TX-1337664-R issued by the Board during all times material to the above-noted complaint.
2. Respondent appraised real property located at: 1227 Dogwood Street, Tyler, Texas 75701 ("the property").
3. Thereafter a complaint was filed with the Board. The complaint alleged that the Respondent produced an appraisal report for the property that did not conform to the Uniform Standards of Professional Appraisal Practice (USPAP), and 22 TEX. ADMIN. CODE CHPT. 153 and 155 (the "Rules").
4. Thereafter the Board, in accordance with the mandate of the Administrative Procedure Act (the "APA"), TEX. GOV'T CODE ANN. CHPT. 2001, and TEX. OCC. CODE CHPT. 1103 (the "Act"), notified Respondent of the nature of the accusations involved and Respondent was afforded an opportunity to respond to the accusations in the complaint. Respondent was also requested to provide certain documentation to the Board, which was received.
5. Respondent violated TEX. OCC. CODE § 1103.405, 22 TEX. ADMIN. CODE §§ 153.20(a)(3) and 155.1(a) by the following acts or omissions which did not conform to USPAP in effect at the time of the appraisal report for the property:

- a) USPAP Ethics Rule (Conduct) – Respondent failed to comply with the USPAP ethics rule because he communicated a misleading report and/or knowingly permitted another person to communicate a misleading report;
- b) USPAP Ethics Rule (record keeping) -- Respondent violated the Ethics Rule because he failed to maintain a work file containing all data, information and documentation necessary to support his opinions, analyses and conclusions as required by the record keeping provisions;
- c) USPAP Scope of Work Rule; 1-2(h) & 2-2(b)(vii) — Respondent failed to satisfy the Scope of Work Rule and related USPAP provisions by failing to recognize and address incurable functional obsolescence for the property, which compounded with deficiencies in the sales comparison approach (discussed below) led to a scope of work which did not produce credible assignment results;
- d) USPAP Standards 1-2(e)(i) & 2-2(b)(iii) -- Respondent failed to identify and report the improvements description by misrepresenting the garage for the property was attached, misrepresenting the property's gross living area through the improper inclusion of the room above the garage in the total gross living area of the improvements and by omitting significant and material information concerning repairs, renovations and additions made to the property and the analysis of this additional information and its impact, if any, on the property's market value. Respondent also failed to identify and report the site description and misrepresented the property's shape, legal description and omitted any reference to the property's dimensions. Respondent also did not provide supporting documentation in his work file for the opinions and conclusions he reached;
- e) USPAP Standards 1-2(e)(iv) & 2-2(b)(viii) -- Respondent misrepresented the property's zoning as "A-1 Residential" and he did not provide supporting documentation in his work file for the opinions and conclusions he reached;
- f) USPAP Standards 1-3(a) & 2-2(b)(viii) - Respondent misrepresented factors affecting marketability (such as economic supply and demand and market area trends), including the neighborhood's one-unit housing price range and did not summarize his rationale for the determinations he made in his report. He also did not provide supporting documentation in his work file for the opinions and conclusions he reached;
- g) USPAP Standards 1-3(b) & 2-2(b)(ix) — Respondent failed to provide an analysis and summarize the rationale underlying his determination of the property's highest and best use, and he did not provide supporting documentation in his work file for the opinions and conclusions he reached;
- h) USPAP Standards 1-4(b)(i) & 2-2(b)(viii); 1-1(a) & 1-4(b) — Respondent failed to use an appropriate method or technique to determine the property's site value. Respondent did not provide supporting documentation or data for this

determination in his work file and did not provide his supporting rationale for his site value determinations contained in the report;

- i) USPAP Standards 1-4(b)(ii) & 2-2(b)(viii); 1-1 (a) & 1-4(b) — Respondent failed to provide support for his determination of the cost new of improvements in his work file and did not summarize his supporting rationale for his determinations. Respondent also did not properly collect, verify, analyze and reconcile this data, which revealed a different price per square foot than Respondent used in his report;
- j) USPAP Standards 1-4(b)(iii) & 2-2(b)(viii); 1-1(a) & 1-4(b) -- Respondent failed to collect, verify, analyze and reconcile accrued depreciations (including the incurable functional obsolescence associated with the additional gross living area) and did not provide documentation in his work file to support his analyses, opinions and conclusion, nor did he provide a summary of his supporting rationale, which explained the reasoning behind those opinions and conclusions;
- k) USPAP Standards 1-4(a) & 2-2(b)(viii); 1-1 (a) & 1-4(a); 1-6(a) & (b) & 2-2(b)(viii) -- Respondent misrepresented that the sales he selected were comparable to the property. He has failed to collect, verify, analyze and reconcile comparable sales data adequately and has not employed recognized methods and techniques in his sales comparison approach. Generally, Respondent used inappropriate properties as comparable sales even though appropriate, more similar sales (in terms of salient market characteristics) were readily available in the immediate area and should have been used. Respondent misrepresented the properties he selected as comparables were similar in location, gross living area, age, condition, amenities and quality of construction. Respondent also failed to make appropriate adjustments or made inappropriate adjustments to the sales he did use, and did not discuss his analysis and reasoning behind the adjustments he made or elected not to make. In general, objective market data was not analyzed by Respondent, which needed to be and would have significantly impacted his assignment results;
- l) USPAP Standards 1-5(a) & 2-2(b)(vii) & 1-1(b); 1-6(a) & (b) & 2-2(b)(viii) — Respondent failed to disclose, analyze and reconcile significant information concerning a prior listing of the property;
- m) USPAP Standards 1-5(b) & 2-2(b)(vii) & 1-1(b); 1-6(a) & (b) & 2-2(b)(viii) — Respondent failed to disclose, analyze and reconcile significant and material information concerning a prior sale of the property; and,
- n) USPAP Standards 1-1(a), 1-1(b), 1-1(c) and 2-1(a) — For the reasons detailed above, Respondent produced a misleading appraisal report for the property that contained misrepresentations and several substantial errors of omission or commission by not employing correct methods and techniques. This resulted in a

misleading appraisal report that was not credible or reliable and negatively impacted his value conclusion.

6. Respondent made material misrepresentations and omissions of material fact with respect to his appraisal of the property as detailed above.

7. The parties enter into the following consent order in accordance with TEX. OCC. CODE § 1103.458.

CONCLUSIONS OF LAW

1. The Board has jurisdiction over this matter pursuant to the Texas Appraiser Licensing and Certification Act, TEX. OCC. CODE § 1103.

2. Respondent violated the above-noted provisions of USPAP as prohibited by TEX. OCC. CODE § 1103.405 and 22 TEX. ADMIN. CODE §§ 155.1(a) and 153.20(a)(3).

3. Respondent violated 22 TEX. ADMIN. CODE § 153.20(a)(9) by misrepresenting and omitting material facts.

4. The parties are authorized to resolve their dispute by means of a consent order in accordance with TEX. OCC. CODE § 1103.458.

ORDER

Based on the above findings of fact and conclusions of law, the Board **ORDERS** that Respondent's certification TX-1337664-R be suspended for twenty-four (24) months effective 5:00 p.m. on February 15th, 2013.

IT IS FURTHER ORDERED that beginning at 5:00 p.m., February 15th, 2013, the suspension is fully probated for twenty-four (24) months ending February 15th, 2015, subject to the following terms and conditions:

1. **NO TRAINEES.** Respondent shall not sponsor or supervise any appraiser trainees for the duration of the above-referenced period;
2. **LOGS.**
3. **MENTORSHIP.** On or before March 4th, 2013, Respondent shall complete 20 hours of in-person mentorship conducted by a certified USPAP instructor approved by the Board. Respondent shall submit a Board approved certification form signed by the approved certified USPAP instructor on or before the due date listed for the mentorship requirement, in accordance with the schedule of topics set out below. Respondent is solely responsible for locating and scheduling an approved mentor to

timely satisfy this Order and is urged to do so well in advance of any compliance deadline to ensure adequate time for completion;

- i. On or before March 4th, 2013, complete twenty (20) hours of mentorship with a focus on the sales comparison approach, prior sales and listing history analysis, and cost approach, including lot value and cost of improvements analysis and determination.
4. **EDUCATION.** On or before March 4th, 2013, Respondent shall submit documentation of attendance and successful completion of the classes set out below to the Board. All classes required by this Order must be approved by the Board. Unless otherwise noted below, all classes must require in-class attendance. Respondent must receive a passing grade on the exam given in each class. None of the required classes will count toward Respondent's continuing education requirements for certification. Respondent is solely responsible for locating and scheduling any classes to timely satisfy this Order and is urged to do so well in advance of any compliance deadline to ensure adequate time for completion:
 - i. Attend and complete a minimum 15 hour classroom course in USPAP;
 - ii. Attend and complete a minimum 15 hour classroom course in the Sales Comparison Approach;
 - iii. Attend and complete a minimum 7 hour classroom course in the Cost Approach;
 - a. No examination shall be required for this course;
5. **LOGS.** On or before each of the dates listed below, Respondent shall submit a signed and notarized experience log and affidavit listing all real estate appraisal activities completed during the the previous six-months.
 - i. August 15th, 2013;
 - ii. February 15th, 2014;
 - iii. August 15th, 2014;
 - iv. February 15th, 2015;
6. Fully and timely comply with all of the provisions of this Agreed Final Order; and,
7. Comply with all future provisions of the Act, the Rules of the Board, and USPAP in the future or be subjected to further disciplinary action.

Failure to comply with any of the terms of this Agreed Final Order within the time allotted shall result in IMMEDIATE SUSPENSION of the Respondent's certification pursuant to notice to the Respondent from the Board indicating that the Respondent has not fulfilled the requirements of this Agreed Final Order. If Respondent's certification is suspended on such a basis, the suspension shall remain in effect until such time as Respondent is in full compliance with the terms of this Order and has provided adequate documentation of that compliance to the Board.

ANY SUCH SUSPENSION SHALL BE EFFECTIVE WITHOUT THE NEED FOR A HEARING OR OTHER ADMINISTRATIVE DUE PROCESS UNDER THE TEXAS APPRAISER LICENSING AND CERTIFICATION ACT OR THE ADMINISTRATIVE PROCEDURE ACT, AND RESPONDENT SPECIFICALLY WAIVES ANY SUCH HEARING OR DUE PROCESS. Respondent shall be notified of any such suspension by first class mail or e-mail to the last known address as provided to the Board.

RESPONDENT, BY SIGNING THIS AGREED FINAL ORDER, WAIVES THE RESPONDENT'S RIGHT TO A FORMAL HEARING, ANY MOTION FOR REHEARING, AND ANY RIGHT TO SEEK JUDICIAL REVIEW OF THIS AGREED FINAL ORDER. Information about this Agreed Final Order is subject to public information requests and notice of this Agreed Final Order will be published on the Board's web site.

I HAVE READ AND REVIEWED THIS ENTIRE AGREED FINAL ORDER FULLY AND AM ENTERING INTO IT OF MY OWN FREE WILL TO AVOID THE EXPENSE OF LITIGATION AND TO REACH AN EXPEDITIOUS RESOLUTION OF THE MATTER. I NEITHER ADMIT NOR DENY THAT THE FINDINGS OF FACT AND CONCLUSIONS OF LAW CONTAINED HEREIN ARE CORRECT. I UNDERSTAND ALL OF MY COMPLIANCE OBLIGATIONS UNDER THIS AGREED FINAL ORDER AND THE CONSEQUENCES FOR FAILING TO COMPLY WITH THOSE OBLIGATIONS.

I UNDERSTAND THAT THE BOARD AND ITS STAFF CANNOT PROVIDE ME WITH LEGAL ADVICE. I AM AWARE OF MY RIGHT TO A HEARING AND TO BE REPRESENTED BY AN ATTORNEY OF MY OWN CHOOSING, AND HEREBY WAIVE BOTH AND ALSO WAIVE ANY RIGHT TO SEEK JUDICIAL REVIEW OF THIS AGREED FINAL ORDER, INCLUDING FOR ANY SUBSEQUENT ACTION RESULTING FROM MY FAILURE TO TIMELY COMPLY WITH AN ADMINISTRATIVE REQUIREMENT OF THIS AGREED FINAL ORDER, SUCH AS PAYMENT OF A FEE, COMPLETION OF COURSEWORK OR FAILURE TO PROVIDE LOGS.

This agreement may be executed in one or more counterparts, in form of electronic mail, facsimile, or other written expression of agreement, each of which shall be deemed an original and together shall comprise evidence of full execution of the agreement.

THE DATE OF THIS AGREED FINAL ORDER shall be the date it is executed by the Chairperson of the Texas Appraiser Licensing and Certification Board. The

Chairperson has been delegated the authority to sign this Agreed Final Order by the Texas Appraiser Licensing and Certification Board vote.

Signed this 15 day of January, 2013.

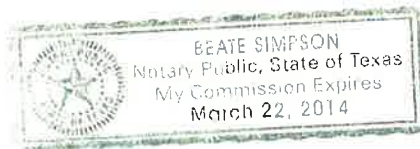

ISRAEL R. GALINDO


TED WHITMER, ATTORNEY FOR
ISRAEL R. GALINDO


SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 15th day of January, 2013, by , to certify which, witness my hand and official seal.


Notary Public Signature


Beate Simpson
Notary Public's Printed Name



Signed by the Standards and Enforcement Services Division this 15th day of FEBRUARY, 2013.


Troy Beaulieu, TALCB Staff Attorney

Signed by the Commissioner this 15th day of February, 2013.


Douglas Oldmixon, Commissioner
Texas Appraiser Licensing and Certification Board

Approved by the Board and Signed this 15th day of February, 2013.


~~Luis De La Garza~~, Chairperson Walker Beard
Texas Appraiser Licensing and Certification Board